APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,806	06/28/2006	Oliver Winzenried	125542-1005	3399

7590   03/24/2009

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EXAMINER
RUIZ, ANGELICA

ART UNIT	PAPER NUMBER
2169	

MAIL DATE	DELIVERY MODE
03/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *28 January 2009*.
2a) ☐ This action is **FINAL**.　　2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *9-28* is/are pending in the application.
　　4a) Of the above claim(s) *1-8* is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *9-28* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a) ☐ All　b) ☐ Some * c) ☐ None of:
　　　1. ☐ Certified copies of the priority documents have been received.
　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.
　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date *2/3/2009*.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

1.   The Action is responsive to Applicant's amendment, filed on January 28, 2009.

2.   Claims 9-28 are pending.

Continued Examination Under 37 CFR 1.114

3.   Receipt is acknowledged of a request for continued examination under 37 CFR

1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on

1/28/2009. A request for continued examination under 37 CFR 1.114, including the fee

set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

1/28/2009 has been entered.

Remarks

4.   Applicant's arguments filed on 1/28/2009 have been fully considered but they are

not persuasive. Applicant argues in substance that the prior art or record Spiers does

not teach the claimed invention as per the argument where states that the mentioned

prior art, in its virtualization mechanism is made to look like a locally connected hard

drive and subsequently the command is just a "network command" the Examiner

respectfully disagrees the mentioned command is also a "write command" and the

commands are generic or interface dependent on the connection as stated in Par

[0032], which clearly states that being a generic write is also sent to the host's computer

system. The functionality in the mentioned prior art that anticipates the claimed features

on this applications mostly relate to the explanations set fort in the present application

The simulation involved in the present application states in the claimed language "data

storage medium present at the interface" which as stated in the office action as (Par

[0038], "...as "virtual" block data storage devices...") as a ""virtual" block data storage

device". There is no recitation in the claimed language that there is no need of using a

"device driver on the host computer for enabling an application to communicate with the

attached device.

USPTO personnel are to give claims their broadest reasonable interpretation in light of

the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023,

1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the

claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d

1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in

view of the specification" without importing limitations from the specification into the

claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551

(CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322

(Fed. Cir. 1989)

Claim Objections

5.   Claim 17 is objected to because of the following informalities: the phrase

"identified with reference to its special," it is unclear if the applicant refers to the "special

file" or "special flexible block address". Applicant is reminded that a pronoun is not

acceptable in the claim language, only what is referred by "its" should set forth in the claims appropriate correction is required.

6.   Claim 24 is objected to because of the following informalities: Complete meaning fro abbreviations "USB" and "SCSI" should be stated in the claim language and the mentioned abbreviation should be between parentheses. Also the phrase "is comprised of" Is suggested to be changed to "comprising". Appropriate correction is required.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8.   Claims 9-27 are rejected under 35 U.S.C. 102(a) as being anticipated by Spiers et al (US 2003/0028731A1).

As per Claim 9, Spiers discloses:

- A method for controlling a data processing device having a processor, which is connected to a computer via an interface, the method comprising (Abstract) and (Fig. 1).

simulating with the data processing device a data storage medium present at the interface which the computer is capable of accessing using write and read commands of the computer's operating system, (Par [0012]), (Par [0038], "…as "virtual" block data storage devices…"), and (Par [0042]).

- generating a device specific command by an application program on the

computer; (Par [0013]).

- storing the command in a special file; (Par [0042], "file command' being the "special

file" as claimed. And (Par [0033])

- writing the special file from the computer to the data processing device by

means of a write command of the operating system of the computer;

 (Par [0038],"... "virtual" block data storage devices 26'. Specifically, the

host operating system 40 with the host remote block storage device processor 42

operates to: (1) receive requests from an application program that relate to the reading

or writing of data to a file located on one of the block data

storage devices 26, i.e., a file request...")*,*

- reading with the connected data processing device the device specific

command from the special file; (Par [0012]) and (Par [0013]).

- and executing the device specific command read from the special file; the

processor of the device. (Par [0015], "that is capable of processing file requests from

application programs that execute on the host computer, where at least a portion of the

file resides on a block data storage device associated with the remote NAS device...")

As per Claim 10, the rejection of Claim 9 is incorporated and further Spiers discloses:

- wherein the device specific command is executed only when the special file

contains identification.

(Par [0042], "…a file command that has been output by an application program

executing in the host system and translating the file command…") and

 (Par [0045], "…holding a unique identifier…") and (Par [0068]).

As per Claim 11, the rejection of Claim 9 is incorporated and further Spiers discloses:

- further comprising generating with the processor of the connected data

processing device an answer to the executed device specific command.

(Par [0033], "…Typically, the second and subsequent device specific commands in a

string are each generated after the outcome of the prior command is known, thereby

allowing the processor to take into account, in determining the second and subsequent

commands, the responses to one or more prior commands where there are multiple,

possible outcomes to at least one prior command….").

As per Claim 12, the rejection of Claim 9 is incorporated and further Spiers discloses:

- further comprising writing a status bit by the processor in the connected data

processing device in a random access memory of the connected data processing

device or in the special file that has been written to the data processing device,

with reference to which bit an answer to the executed command is generated at

the next access to the file.

(Par [0050], "…The Status/Type field is used to specify that there is "no error" in the

write sub-command. The write network command further includes a data field that holds

the data that is to be written on one of the block data storage devices 26 in the NAS

device 14 according to the values set forth in the cluster id, lun id and StartLBA fields.

Further, the write network command includes, if the C field in a previously sent identify

network command is set to "1", an error correction code field that contains a error

correction code for the data set forth in the data field."), inherently the "1" is a "status bit"

as claimed.

As per Claim 13, the rejection of Claim 11 is incorporated and further Spiers discloses:

- wherein the answer to the executed command is buffered in a volatile or non

volatile memory of the connected data processing device.

(Par [0040], "The host computer 16 also includes a data buffer 49 that facilitates

network performance by allowing data transfers to take place over the network

infrastructure 18 even though the application program 38 is not in a condition to process

the data transfer. For example, if the application program 38 is not capable of

processing the response to a "read" network command, the data can be stored in the

data buffer 49 and transferred to the application program 38 at a later time...")

As per Claim 14, the rejection of Claim 11 is incorporated and further Spiers discloses:

- further comprising: sending a read command of the operating system related to

the special file from the computer to the connected data processing device;

(Par [0013], "...and finally issuing the device specific read command to cause the

requested data to be read. The block data storage processor is also capable of causing

any such string of commands to be transmitted to the block data storage interface

for...") and (Par [0055]).

- receiving the read command in the device; (Par [0032])

- storing the answer generated in the device in the special file, which is thereby

modified; (Abstract and Claim 10)

- and returning the special file from the connected data processing device to the

computer in the execution of the read command. (Par [0069]).

As per Claim 15, the rejection of Claim 14 is incorporated and further Spiers discloses:

- further comprising:

receiving the returned special file by the computer; (Par [0032])

recognizing that the special file contains an answer; (Par [0046]) and (Par [0069])

- and reading the answer from the special file and further processing the answer

in the application program. (Par [0012]) and (Par [0013]).

As per Claim 16, the rejection of Claim 11 is incorporated and further Spiers discloses:

- wherein the answer generated by the processor of the device is one of a device

status or an error message.

(Par [0050], "...The Status/Type field is used to specify that there is "no error" in the

write sub-command. The write network command further includes a data field that holds

the data that is to be written on one of the block data storage devices 26 in the NAS

device 14 according to the values set forth in the cluster id, lun id and StartLBA fields.

Further, the write network command includes, if the C field in a previously sent identify network command is set to "1", an error correction code field that contains a error correction code for the data set forth in the data field.") and (Par [0048]).

As per Claim 17, the rejection of Claim 11 is incorporated and further Spiers discloses:

- wherein the special file is identified with reference to its special, flexible block address.

(Par [0012]) and (Par [0030]-[0031]), the "command file" inherently comes from a "block address" as claimed.

As per Claim 18, the rejection of Claim 9 is incorporated and further Spiers discloses:

- wherein the special file is written onto a mass storage device of the connected data processing device or is read from a mass storage device of the connected data process device.

(Par [0004]) and (Par [0036]), the "NAS" being the "mass storage device" as claimed.

As per Claim 19, being the system claim corresponding to the method claim 9 respectively and rejected under the same reason set forth in connection of the rejections of Claim 9 and further Spiers discloses:

- comprising an application program stored in the memory of the computer, the application program comprising instructions for executing on the computer for generating a device specific command...

(Abstract and Claim 10) and (Fig. 1) and (Par [0042]).

As per Claim 20, the rejection of Claim 19 is incorporated, and Spiers further discloses:

- *characterized in that the processor of the device is adapted for executing the*

device specific command only when the special file contains identification.

(Par [0042], "…a file command that has been output by an application program

executing in the host system and translating the file command…") and (Par [0045],

"…holding a unique identifier…") and (Par [0067] - [0068]).

As per Claim 21, the rejection of Claim 19 is incorporated, and Spiers further discloses:

- *characterized in that an answer to the executed device specific command is*

generated by the processor of the connected data processing device.

(Abstract and Par [0033], "…Typically, the second and subsequent device specific

commands in a string are each generated after the outcome of the prior command is

known, thereby allowing the processor to take into account, in determining the second

and subsequent commands, the responses to one or more prior commands where there

are multiple, possible outcomes to at least one prior command….").

As per Claim 22, the rejection of Claim 21 is incorporated, and Spiers further discloses:

- *characterized in that the computer is adapted for sending a read command of*

the operating system concerning the special file to the connected data

processing device after receiving the read command, the device stores the

answer generated in the device in the special file, whereby the special file is

modified; (Par [0013], "...and finally issuing the device specific read command to cause the requested data to be read. The block data storage processor is also capable of causing any such string of commands to be transmitted to the block data storage interface for...") and (Par [0055]) and (Abstract and Claim 10)

- and the connected data processing device is adapted for returning the special file to the computer in the execution of the read command of the operating system of the computer. (Par [0032]) and (Par [0069]).

As per Claim 23, the rejection of Claim 19 is incorporated, and Spiers further discloses:
- characterized in that the connected data processing device, to which the special file is transmitted by means of the write command of the operating system, comprises no mass storage device for storing files.
(Abstract) and (Par [0047]) and (Par [0035] – [0036], "...without the block data storage devices...").

As per Claim 24, the rejection of Claim 19 is incorporated, and Spiers further discloses:
- characterized in that the interface of the computer is comprised of a USB interface or a SCSI interface.
(Par [0008], "...if the remote memory device is a SCSI disk drive, the "initiating virtual device driver" in the initiating computer implements the complete SCSI command set necessary to communicate with the remote SCSI disk drive...").

As per Claim 25, the rejection of Claim 19 is incorporated, and Spiers further discloses:

- characterized in that the processor for executing the read device specific command is arranged in an external device.

(Abstract and Par [0008], "...remote relative to the initiating computer system...") and (Par [0042], "Generally, the host operating system 40 with host remote block storage device processor 42 is capable of receiving a file command that has been output by an application program executing in the host system...").

As per Claim 26, Spiers further discloses:

- A device for executing a device specific command generated on a computer, the device comprising an interface for connecting to a computer, processor, and memory for storing data files, (Abstract and Claim 10) and (Fig. 1)

- the device being specifically adapted for simulating a stored medium to an interfacing computer and receiving a special file containing a device specific command created by an application running on the computer and written to the device using the write command of the computer's operating system, (Par [0012]), (Par [0038]), (Par [0042], "file command' being the "special file" as claimed, (Par [0033]), (Par [0064]), and (Par [0067]).

- the processor being adapted to read the device specific command in the special file in response to receiving the special file by means of the write command of the operating system of the computer through the interface with the computer, and to execute the device specific command contained in the special file.

(Par [0067], "…network interface 22. For instance, if the network command received at

the network interface was a "read" network command, the processor 30 is capable of

causing the block of data that has been read from the device to be conveyed on to the

storage device network interface 22 for transport over the network infrastructure 18 to

the host computer 16.").

As per Claim 27, the rejection of Claim 26 is incorporated and Spiers further discloses:

- characterized in that the device comprises no mass storage device for storing

files.

(Abstract) and (Par [0047]) and (Par [0035] – [0036], "…without the block data storage

devices…").

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spiers et

al (US 2003/0028731A1), in view of Hertz et al (US 2003/0056060 A1).

As per Claim 28, the rejection of Claim 9 is incorporated and Spiers further discloses:

- wherein the special file is written by the write command of the operating system

of the computer to a predetermined block address.

(Par 0042]), (Par [0048], "...The StartLBA field is used to specify the starting logical

block address...") and (Par [0067]).

However Spiers does not specifically discloses "predetermined block address"

On the other hand Hertz discloses the above claimed feature as follows:

(Abstract and Claim 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of invention was made to incorporate the teachings of Hertz into the teachings

of Spiers to write a command to a predetermined block address. The modification would

have been obvious because one of the ordinary skills in the art would implement this to

store the special file in a specific device for backup and security purposes.

Conclusion

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ANGELICA RUIZ whose telephone number is (571)270-

3158. The examiner can normally be reached on 8:00 a.m. to 4:30 p.m., ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Mohammad Ali can be reached on (571) 272-4105. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Angelica Ruiz
Examiner
Art Unit 2169

/Mohammad Ali/

Supervisory Patent Examiner, Art Unit 2169